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U.S. Securities and Exchange Commission

U.S. SECURITIES AND EXCHANGE COMMISSION

Litigation Release No. 20310 / September 28, 2007

SEC v. Monty Fu, C.A. No. 1:07CV01735 (EGS) (D.D.C.)

SEC Files Settled Books and Records and Internal Accounting Controls Charges Against Former Chairman of Syncor International Corp.

On September 27, 2007, the Securities and Exchange Commission filed a settled civil injunctive action in the United States District Court for the District of Columbia against Monty Fu, who founded and served as chairman of Syncor International Corp. ("Syncor") prior to the company's acquisition in January 2003. The action stems from payments made by Syncor's former subsidiary, Syncor Taiwan, Inc. ("Syncor Taiwan"), to doctors employed by private and public hospitals in Taiwan over a 17-year period ending in 2002. In connection with these payments, the Commission charged Fu with violating, and aiding and abetting Syncor's violations of, the books-and-records and internal-accounting-controls provisions of the Foreign Corrupt Practices Act ("FCPA"). Without admitting or denying the allegations in the Commission's complaint, Fu has consented to the entry of a final judgment imposing a permanent injunction and ordering him to pay a civil penalty of \$75,000.

The Commission's complaint alleges that from 1985 through December 2002, Syncor Taiwan paid commissions and, commencing in 1997, referral fees to doctors employed by private and public hospitals in Taiwan. The total alleged payments to doctors averaged over \$30,000 per year from 1989 through at least 1993 and increased to average over \$170,000 per year from at least 1997 through the first half of 2002. According to the complaint, Syncor Taiwan improperly recorded these payments in its accounting books and records as "Advertising and Promotions" expenses. The subsidiary's books and records were then consolidated into the books and records of Syncor and included in the financial statements Syncor filed with the Commission.

The Commission's complaint alleges that Fu had the authority to maintain compliance with existing internal accounting controls and to implement additional internal accounting controls sufficient to ensure that Syncor Taiwan executed and recorded payments in compliance with the books-and-records and internal-accounting-controls provisions of the FCPA (Sections 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act")). The complaint further alleges that Fu was aware at all relevant times that Syncor Taiwan was paying commissions and referral fees and that, at least as early as 1994, he knew or was reckless in not knowing that payments were improperly recorded on the books and records of Syncor Taiwan and, thus, of Syncor. Nonetheless, as alleged in the

complaint, Fu failed to maintain compliance with existing internal accounting controls and also failed to implement additional internal accounting controls, thereby causing payments to be improperly recorded and aiding and abetting Syncor's violations of the books-and-records and internal-accounting-controls provisions of the FCPA.

Without admitting or denying the allegations in the complaint, Fu has agreed to settle the Commission's charges by consenting to the entry of a final judgment: (i) permanently enjoining him from future violations of Section 13(b)(5) of the Exchange Act and Rule 13b2-1 thereunder, and from aiding and abetting violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act; and (ii) ordering him to pay a civil penalty of \$75,000.

Previously, in December 2002, the Commission instituted settled civil and administrative proceedings against Syncor arising out of alleged payments made by certain of Syncor's foreign subsidiaries, including Syncor Taiwan, to doctors employed by hospitals controlled by foreign authorities. Without admitting or denying the allegations, Syncor consented to pay a \$500,000 civil penalty and to be subject to a cease-and-desist order. *See SEC v. Syncor International Corp.*, C.A. No. 1:02CV02421 (EGS) (D.D.C.) (filed Dec. 10, 2002), Litigation Release No. 17887 (Dec. 10, 2002). At the same time, the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney for the Central District of California filed settled criminal FCPA charges against Syncor Taiwan, which consented to pay a \$2 million fine. *See U.S. v. Syncor Taiwan, Inc.*, No. 02-CR-1244-ALL (C.D. Cal.) (filed Dec. 4, 2002).

The Commission acknowledges the assistance of the U.S. Department of Justice, the Federal Bureau of Investigation, and the Taiwan Taipei District Prosecutors Office.

▶ [SEC Complaint in this matter](#)

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